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EXAMINER

YOUNG, JOHN L

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 07/10/2002

12

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No. <b>09/107,971</b>	Applicant(s) <b>Walker et al.</b>	
Examiner <b>John Young</b>	Art Unit <b>3622</b>	

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on Apr 8, 2002

2a)  This action is FINAL.      2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

4)  Claim(s) 1-27 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-27 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.

2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

1)  Notice of References Cited (PTO-892)

4)  Interview Summary (PTO-413) Paper No(s). 12

2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)

5)  Notice of Informal Patent Application (PTO-152)

3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

6)  Other: \_\_\_\_\_

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## **FINAL REJECTION**

### **STATUS OF THE CLAIMS**

1. Claims 1-27 are pending.

### **DRAWING OBJECTIONS**

2. This application has been filed with drawings that are acceptable for examination and publication purposes. The review process for drawings that are included with applications on filing has been modified in view of the new requirement to publish applications at eighteen months after the filing date of applications, or any priority date claimed under 35 U.S.C. §§119, 120, 121, or 365.

### **CLAIM REJECTIONS — 35 U.S.C. §103(a)**

3. **Rejections Maintained.**

### **ORIGINAL 35 U.S.C. §103(a) REJECTIONS**

#### **CLAIM REJECTIONS — 35 U.S.C. §103(a)**

**The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.**

4. Independent claims 1, 11, 15 & 20-25 and dependent claims 2-14, are rejected under 35 U.S.C. §103(a) as being unpatentable over Storch 5,548,110 (8/20/1996) (herein referred to as

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“Storch”) in view of Roberts 5,772,510 (6/30/1998) [US f/d: 10/26/1995] (herein referred to as “Roberts”) and further in view of “Heads I win, tails you lose.” The Economist (13 June 1992) vol. 323, p. 74 (herein referred to as “The Economist”).

As per claim 1, Storch (FIG. 1; FIG. 2; FIG. 22; FIG. 24; FIG. 25; FIG. 28; FIG. 29; FIG. 31; FIG. 32; FIG. 34; FIG. 50; col. 6, ll. 26-48; col. 8, ll. 17-40; col. 13, ll. 27-30; col. 70, ll. 50-64; and col. 132, ll. 33-50) shows elements that suggest:

A method for facilitating the purchase of fractional lottery tickets using a point-of-sale terminal, comprising: determining a monetary value; selecting a ticket record that includes a set of ticket numbers; purchasing at least one lottery ticket based on the monetary value and the set of ticket numbers after the step of selecting; and outputting the ticket numbers and a fractional lottery ticket value that is based on the monetary value.

Storch lacks an explicit recitation of a lottery “ticket record. . . .”

Official Notice is taken that both the concept and the advantages of a lottery “ticket record. . . .” were well known and expected in the art at the time of the invention. It would have been obvious to include a lottery “ticket record. . . .” because such identifiers would have provided means for “[sending] . . . ticket completion information necessary to provide a completed lottery ticket. . . .” (See Roberts (col. 6, ll. 54-55)).

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Storch lacks an explicit recitation of: “outputting the ticket numbers and a fractional lottery ticket value that is based on the monetary value. . . .” even though Storch (FIG. 1; FIG. 2; FIG. 22; FIG. 24; FIG. 25; FIG. 28; FIG. 29; FIG. 31; FIG. 32; FIG. 34; FIG. 50; col. 6, ll. 26-48; col. 8, ll. 17-40; col. 13, ll. 27-30; col. 70, ll. 50-64; and col. 132, ll. 33-50) suggests the same.

Roberts (FIG. 2B, el. 20b; and col. 4, ll. 5-65) shows elements that suggest “outputting the ticket numbers and a fractional lottery ticket value that is based on the monetary value. . . .”

Roberts proposes ticket number modifications that would have applied to the system and method of Storch. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Roberts with the system and method of Storch because such combination would have provided means for “[sending] . . . ticket completion information necessary to provide a completed lottery ticket. . . .” (See Roberts (col. 6, ll. 54-55)).

Storch lacks an explicit recitation of: “determining a monetary value. . . .”

The Economist (p. 1) shows elements that suggest “determining a monetary value. . . .”

The Economist proposes monetary determination modifications that would have applied to the system and method of Storch. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of The Economist.

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Economist with the system and method of Storch because such combination would have provided means for “determining a monetary value. . . .” (See The Economist (p. 1)).

As per claim 2, Storch in view of Roberts and further in view of The Economist shows the method of claim 1. (See the rejection of claim 1 supra).

Storch lacks an explicit recitation of: “determining a monetary value based on an amount of change due for a purchase. . . .”

The Economist (p. 1) shows elements that suggest “determining a monetary value based on an amount of change due for a purchase. . . .”

The Economist proposes monetary determination modifications that would have applied to the system and method of Storch. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of The Economist with the system and method of Storch because such combination would have provided means for “determining a monetary value. . . .” (See The Economist (p. 1)).

As per claim 3, Storch in view of Roberts and further in view of The Economist shows the method of claim 1. (See the rejection of claim 1 supra).

Storch lacks an explicit recitation of: “creating the ticket record. . . .” even though Storch (FIG. 1; FIG. 2; FIG. 22; FIG. 24; FIG. 25; FIG. 28; FIG. 29; FIG. 31; FIG. 32; FIG. 34; FIG. 50; col. 6, ll. 26-48; col. 8, ll. 17-40; col. 13, ll. 27-30; and col. 132, ll. 33-50) suggests the same.

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Roberts (FIG. 1; FIG. 2B, el. 20b; FIG. 2C, el. 20b; & FIG. 8B) shows elements that suggest “creating the ticket record. . . .”

Roberts proposes ticket record creation modifications that would have applied to the system and method of Storch. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Roberts with the system and method of Storch because such combination would have provided means “for dispensing completed lottery tickets from a vending machine.” (See Roberts (col. 2, ll. 59-60)).

As per claim 4, Storch in view of Roberts and further in view of The Economist shows the method of claim 1. (See the rejection of claim 1 supra).

Storch lacks an explicit recitation of: “selecting a ticket record randomly. . . .” even though Storch (FIG. 1; FIG. 2; FIG. 22; FIG. 24; FIG. 25; FIG. 28; FIG. 29; FIG. 31; FIG. 32; FIG. 34; FIG. 50; col. 6, ll. 26-48; col. 8, ll. 17-40; col. 13, ll. 27-30; and col. 132, ll. 33-50) suggests the same.

Roberts (FIG. 2A; FIG. 5; & FIG. 8A) shows elements that suggest “selecting a ticket record randomly. . . .”

Roberts proposes ticket record selection modifications that would have applied to the system and method of Storch. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Roberts with the system and method of Storch because such combination would have provided means “for

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dispensing completed lottery tickets from a vending machine.” (See Roberts (col. 2, ll. 59-60)).

As per claim 5, Storch in view of Roberts and further in view of The Economist shows the method of claim 1. (See the rejection of claim 1 supra).

Storch lacks an explicit recitation of: “receiving a signal indicating selected ticket numbers. . . .” even though Storch (FIG. 1; FIG. 2; FIG. 22; FIG. 24; FIG. 25; FIG. 28; FIG. 29; FIG. 31; FIG. 32; FIG. 34; FIG. 50; col. 6, ll. 26-48; col. 8, ll. 17-40; col. 13, ll. 27-30; and col. 132, ll. 33-50) suggests the same.

Roberts (FIG. 2A; FIG. 5; & FIG. 8A) shows elements that suggest “receiving a signal indicating selected ticket numbers. . . .”

Roberts proposes ticket selection modifications that would have applied to the system and method of Storch. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Roberts with the system and method of Storch because such combination would have provided means “for dispensing completed lottery tickets from a vending machine.” (See Roberts (col. 2, ll. 59-60)).

As per claim 6, Storch in view of Roberts and further in view of The Economist shows the method of claim 5. (See the rejection of claim 5 supra).

Storch lacks an explicit recitation of: “selecting a plurality of ticket records to select a ticket record that indicates the selected ticket numbers. . . .” even though Storch

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(FIG. 1; FIG. 2; FIG. 22; FIG. 24; FIG. 25; FIG. 28; FIG. 29; FIG. 31; FIG. 32; FIG. 34; FIG. 50; col. 6, ll. 26-48; col. 8, ll. 17-40; col. 13, ll. 27-30; col. 70, ll. 50-64; and col. 132, ll. 33-50) suggests the same.

Roberts (FIG. 6A & FIG. 6B) shows elements that suggest “selecting a plurality of ticket records to select a ticket record that indicates the selected ticket numbers. . . .”

Roberts proposes ticket record selection modifications that would have applied to the system and method of Storch. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Roberts with the system and method of Storch because such combination would have provided means “for dispensing completed lottery tickets from a vending machine.” (See Roberts (col. 2, ll. 59-60)).

As per claim 7, Storch in view of Roberts and further in view of The Economist shows the method of claim 1. (See the rejection of claim 1 supra).

Storch lacks an explicit recital of “increasing a total value amount of the selected ticket record in accordance with the fractional lottery ticket value.”

The Economist (p. 1) shows elements that suggest “increasing a total value amount of the selected ticket record in accordance with the fractional lottery ticket value.”

The Economist proposes ticket value increase modifications that would have applied to the system and method of Storch. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of The

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Economist with the system and method of Storch because such combination would have provided means for “determining a monetary value. . . .” (See The Economist (p. 1)).

As per claim 8, Storch in view of Roberts and further in view of The Economist shows the method of claim 7. (See the rejection of claim 7 supra).

Storch lacks an explicit recital of “adjusting an amount to round up based on the increased total value amount.”

The Economist (p. 1) shows elements that suggest “adjusting an amount to round up based on the increased total value amount.”

The Economist proposes value-rounding-up modifications that would have applied to the system and method of Storch. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of The Economist with the system and method of Storch because such combination would have provided means for “determining a monetary value. . . .” (See The Economist (p. 1)).

As per claim 9, Storch in view of Roberts and further in view of The Economist shows the method of claim 1. (See the rejection of claim 1 supra).

Storch lacks an explicit recital of “selecting a ticket record having an amount to round up at least as great as the fractional lottery ticket value.”

The Economist (p. 1) shows elements that suggest “selecting a ticket record having an amount to round up at least as great as the fractional lottery ticket value.”

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The Economist proposes fractional rounding-up modifications that would have applied to the system and method of Storch. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of The Economist with the system and method of Storch because such combination would have provided means for “determining a monetary value. . . .” (See The Economist (p. 1)).

As per claim 10, Storch in view of Roberts and further in view of The Economist shows the method of claim 1. (See the rejection of claim 1 supra).

Storch lacks an explicit recital of “determining a set of ticket records that each have an amount to round up at least as great as the fractional lottery ticket value; and selecting a ticket record from the set of ticket records which has a minimal amount to round up.”

The Economist (p. 1) shows elements that suggest “determining a set of ticket records that each have an amount to round up at least as great as the fractional lottery ticket value; and selecting a ticket record from the set of ticket records which has a minimal amount to round up.”

The Economist proposes fractional rounding-up modifications that would have applied to the system and method of Storch. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of The Economist with the system and method of Storch because such combination would have provided means for “determining a monetary value. . . .” (See The Economist (p. 1)).

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As per claim 11, Storch (FIG. 1; FIG. 2; FIG. 22; FIG. 24; FIG. 25; FIG. 28; FIG. 29; FIG. 31; FIG. 32; FIG. 34; FIG. 50; col. 6, ll. 26-48; col. 8, ll. 17-40; col. 13, ll. 27-30; col. 70, ll. 50-64; and col. 132, ll. 33-50) shows elements that suggest:

A method for facilitating the purchase of fractional lottery tickets using a point-of-sale terminal, comprising: determining a monetary value; selecting a ticket record that includes a set of ticket numbers; purchasing at least one lottery ticket based on the value and the set of ticket numbers after the step of selecting; and outputting the ticket numbers and a fractional lottery ticket value that is based on the monetary value.

Storch lacks an explicit recitation of: “determining a monetary value. . .”

The Economist (p. 1) shows elements that suggest “determining a monetary value. . .”

The Economist proposes monetary determination modifications that would have applied to the system and method of Storch. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of The Economist with the system and method of Storch because such combination would have provided means for “determining a monetary value. . .” (See The Economist (p. 1)).

Storch lacks an explicit recitation of a lottery “determining an amount of change

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due for a purchase. . . .”

Official Notice is taken that both the concept and the advantages of a lottery “determining an amount of change due for a purchase. . . .” were well known and expected in the art at the time of the invention. It would have been obvious to include in a lottery ticket dispensing system means for “determining an amount of change due for a purchase. . . .” because such combination would have provided means for “determining a monetary value. . . .” (See The Economist (p. 1)).

Storch lacks an explicit recitation of: “determining a monetary value based on the amount of change due. . . .”

The Economist (p. 1) shows elements that suggest “determining a monetary value based on the amount of change due. . . .”

The Economist proposes monetary determination modifications that would have applied to the system and method of Storch. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of The Economist with the system and method of Storch because such combination would have provided means for “determining a monetary value. . . .” (See The Economist (p. 1)).

Storch lacks an explicit recitation of a lottery “ticket record. . . .”

Official Notice is taken that both the concept and the advantages of a lottery “ticket record. . . .” were well known and expected in the art at the time of the invention. It would have been obvious to include a lottery “ticket record. . . .” because such identifiers would have provided means for “[sending] . . . ticket completion information

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necessary to provide a completed lottery ticket. . . .” (See Roberts (col. 6, ll. 54-55)).

Storch lacks an explicit recitation of: “outputting the ticket numbers and a fractional lottery ticket value that is based on the monetary value. . . .” even though Storch (FIG. 1; FIG. 2; FIG. 22; FIG. 24; FIG. 25; FIG. 28; FIG. 29; FIG. 31; FIG. 32; FIG. 34; FIG. 50; col. 6, ll. 26-48; col. 8, ll. 17-40; col. 13, ll. 27-30; col. 70, ll. 50-64; and col. 132, ll. 33-50) suggests the same.

Roberts (FIG. 2B, el. 20b; and col. 4, ll. 5-65) shows elements that suggest “outputting the ticket numbers and a fractional lottery ticket value that is based on the monetary value. . . .”

Roberts proposes ticket number modifications that would have applied to the system and method of Storch. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Roberts with the system and method of Storch because such combination would have provided means for “[sending] . . . ticket completion information necessary to provide a completed lottery ticket. . . .” (See Roberts (col. 6, ll. 54-55)).

As per claim 12, Storch in view of Roberts and further in view of The Economist shows the method of claim 11. (See the rejection of claim 11 supra).

Storch lacks an explicit recital of “rounding the amount of change due to a predetermined multiple, thereby generating a rounded change amount; and setting the monetary value equal to the rounded change amount.”

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The Economist (p. 1) shows elements that suggest “rounding the amount of change due to a predetermined multiple, thereby generating a rounded change amount; and setting the monetary value equal to the rounded change amount.”

The Economist proposes change rounding modifications that would have applied to the system and method of Storch. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of The Economist with the system and method of Storch because such combination would have provided means for “determining a monetary value. . . .” (See The Economist (p. 1)).

As per claim 13, Storch in view of Roberts and further in view of The Economist shows the method of claim 12. (See the rejection of claim 12 supra).

Storch lacks an explicit recital of “rounding down the amount of change due to a predetermined multiple, thereby generating a rounded-down change amount.”

The Economist (p. 1) shows elements that suggest “rounding down the amount of change due to a predetermined multiple, thereby generating a rounded-down change amount.”

The Economist proposes change rounding-down modifications that would have applied to the system and method of Storch. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of The Economist with the system and method of Storch because such combination would have provided means for “determining a monetary value. . . .” (See The Economist (p. 1)).

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As per claim 14, Storch in view of Roberts and further in view of The Economist shows the method of claim 13. (See the rejection of claim 13 supra).

Storch lacks an explicit recital of “outputting an offer to exchange a fractional lottery ticket for change due.”

The Economist (p. 1) shows elements that suggest “outputting an offer to exchange a fractional lottery ticket for change due.”

The Economist proposes offer outputting modifications that would have applied to the system and method of Storch. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of The Economist with the system and method of Storch because such combination would have provided means for “determining a monetary value. . . .” (See The Economist (p. 1)).

As per claim 15, Storch (FIG. 1; FIG. 2; FIG. 22; FIG. 24; FIG. 25; FIG. 28; FIG. 29; FIG. 31; FIG. 32; FIG. 34; FIG. 50; col. 6, ll. 26-48; col. 8, ll. 17-40; col. 13, ll. 27-30; col. 70, ll. 50-64; and col. 132, ll. 33-50) shows elements that suggest:

A method for facilitating the purchase of fractional lottery tickets using a point-of-sale terminal, comprising: determining a monetary value; selecting a ticket record that includes a set of ticket numbers; purchasing at least one lottery ticket based on the monetary value and the set of ticket numbers after the step of selecting; and

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outputting the ticket numbers and a fractional lottery ticket value  
that is based on the monetary value.

Storch lacks an explicit recitation of a lottery “ticket record. . .”

Official Notice is taken that both the concept and the advantages of a lottery  
“ticket record. . .” were well known and expected in the art at the time of the invention.  
It would have been obvious to include a lottery “ticket record. . .” because such  
identifiers would have provided means for “[sending] . . . ticket completion information  
necessary to provide a completed lottery ticket. . .” (See Roberts (col. 6, ll. 54-55)).

Storch lacks an explicit recitation of: “outputting the ticket numbers and a  
fractional lottery ticket value that is based on the monetary value. . .” even though Storch  
(FIG. 1; FIG. 2; FIG. 22; FIG. 24; FIG. 25; FIG. 28; FIG. 29; FIG. 31; FIG. 32; FIG. 34;  
FIG. 50; col. 6, ll. 26-48; col. 8, ll. 17-40; col. 13, ll. 27-30; col. 70, ll. 50-64; and col.  
132, ll. 33-50) suggests the same.

Roberts (FIG. 2B, el. 20b; and col. 4, ll. 5-65) shows elements that suggest  
“outputting the ticket numbers and a fractional lottery ticket value that is based on the  
monetary value. . .”

Roberts proposes ticket number modifications that would have applied to the  
system and method of Storch. It would have been obvious to one of ordinary skill in the  
art at the time of the invention to combine the teachings of Roberts with the system and  
method of Storch because such combination would have provided means for “[sending] . .

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. ticket completion information necessary to provide a completed lottery ticket. . . ." (See Roberts (col. 6, ll. 54-55)).

Storch lacks an explicit recitation of: "determining a monetary value. . . ."

The Economist (p. 1) shows elements that suggest "determining a monetary value. . . ."

The Economist proposes monetary determination modifications that would have applied to the system and method of Storch. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of The Economist with the system and method of Storch because such combination would have provided means for "determining a monetary value. . . ." (See The Economist (p. 1)).

Storch lacks an explicit recitation of a lottery "determining a prize value of the at least one lottery ticket; and providing a portion of the prize value based on the fractional lottery ticket value."

Official Notice is taken that both the concept and the advantages of a lottery "determining a prize value of the at least one lottery ticket; and providing a portion of the prize value based on the fractional lottery ticket value. . . ." were well known and expected in the art at the time of the invention. It would have been obvious to have included a determination of a prize value and based it on the fractional lottery ticket value because such combination would have provided means for "determining a monetary value. . . ." (See The Economist (p. 1)).

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Claims 20 & 21 are rejected for substantially the same reasons as claim 1.

Claims 22 & 23 are rejected for substantially the same reasons as claim 11.

Claims 24 & 25 are rejected for substantially the same reasons as claim 15.

#### **REVISED 35 U.S.C. §103(a) REJECTIONS**

**The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.**

5. Claims 16-18 & 26-27 are rejected under 35 U.S.C. §103(a) as being unpatentable over Roberts in view of Storch and further in view of Nilssen 5,083,784(1/28/1992) (herein referred to as “Nilssen”).

As per claim 16, Roberts (FIG. 1; FIG. 2B; FIG. 3; and the ABSTRACT) shows elements that suggest:

A method for facilitating the purchase of fractional lottery tickets using a point-of-sale terminal, comprising: determining a total value amount corresponding to a set of ticket numbers. . . .

Roberts lacks an explicit recitation of:

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A method for facilitating the purchase of fractional lottery tickets using a point-of-sale terminal, comprising: determining a total value amount corresponding to a set of ticket numbers. . . .

Storch (FIG. 22; FIG. 50; col. 8, ll. 17-40; col. 70, ll. 50-64; col. 71, ll. 1-10; col. 72, ll. 28-35; FIG. 1; FIG. 2; FIG. 24; FIG. 25; FIG. 28; FIG. 29; FIG. 31; FIG. 32; FIG. 34; col. 6, ll. 26-48; col. 13, ll. 27-30; and col. 132, ll. 33-50) shows elements that suggest:

A method for facilitating the purchase of fractional lottery tickets using a point-of-sale terminal, comprising: determining a total value amount corresponding to a set of ticket numbers. . . .

Storch proposes fractional lottery ticket modifications that would have applied to the lottery ticket system of Roberts. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of Storch with the teachings of Roberts because such combination would have provided means “*to improve counterfeit detection and/or deterrence. . . .*” (See Storch (col. 4, ll. 10-12)).

Roberts lacks an explicit recitation of a lottery “acquiring at least one lottery ticket having the set of ticket numbers based on the total value amount.”

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Nilssen (col. 6, ll. 24-40) shows elements that suggest “acquiring at least one lottery ticket having the set of ticket numbers based on the total value amount.”

Nilssen proposes lottery ticket acquisition based on value amount modifications that would have applied to the lottery ticket system of Roberts. It would have been obvious to combine the disclosure of Nilssen with the teachings of Roberts because such combination would have provided means to “[provide] . . . a lottery process and system operative to increasing the average monetary return from an investment in a lottery ticket. . . .” (See Nilssen (col. 1, ll. 25-30)).

As per claim 17, Roberts in view of Storch and further in view of Nilssen shows the method of claim 16. (See the rejection of claim 16 supra).

Roberts (col. 1, ll. 5-14) shows elements that suggest “acquiring is performed at predefined periods. . . .”

Roberts lacks an explicit recitation of a lottery “acquiring is performed at predefined periods.”

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Roberts (col. 1, ll. 5-14) would have been selected in accordance with “acquiring is performed at predefined periods. . . .” because such selection would have provided means for “[providing] an improved lottery ticket vending machine.” (See Roberts (col. 2, ll. 1-2)).

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As per claim 18, Roberts in view of Storch and further in view of Nilssen shows the method of claim 16. (See the rejection of claim 16 supra).

Roberts (col. 1, ll. 5-14) shows elements that suggest “acquiring is performed at predefined periods before a drawing.”

Roberts lacks an explicit recitation of a lottery “acquiring is performed at a predefined time before a drawing.”

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Roberts (col. 1, ll. 5-14) would have been selected in accordance with “acquiring is performed at a predefined time before a drawing. . . .” because such selection would have provided means for “[providing] an improved lottery ticket vending machine.” (See Roberts (col. 2, ll. 1-2)).

Claims 26 & 27 are rejected for substantially the same reasons as claim 16.

6. Claim 19 is rejected under 35 U.S.C. §103(a) as being unpatentable over Roberts in view of Storch and Nilssen and further in view of The Economist.

As per claim 19, Roberts in view of Storch and further in view of Nilssen shows the method of claim 16. (See the rejection of claim 16 supra).

Roberts lacks an explicit recitation of: “determining an amount to round up based on the total value amount; and in which the step of acquiring is performed when the amount to round up is below a predetermined value.”

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The Economist (p. 1) shows elements that suggest “determining an amount to round up based on the total value amount. . . .”

The Economist proposes amount-rounding-up modifications that would have applied to the system and method of Roberts. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of The Economist with the system and method of Storch because such combination would have provided means for “determining a monetary value. . . .” (See The Economist (p. 1)).

Roberts lacks an explicit recitation of: “the step of acquiring is performed when the amount to round up is below a predetermined value. . . .”

The Economist (p. 1) shows elements that suggest “the step of acquiring is performed when the amount to round up is below a predetermined value. . . .”

The Economist proposes amount-rounding-up modifications that would have applied to the system and method of Roberts. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of The Economist with the system and method of Roberts because such combination would have provided means for “determining a monetary value. . . .” (See The Economist (p. 1)).

## RESPONSE TO ARGUMENTS

7. Applicant's arguments (Response, paper#11, filed 04/08/2002) have been considered but are not persuasive for the following reasons:

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Applicant's Response (paper#11) is characterized as an "AMENDMENT"; however, the Examiner can find no amended subject matter in paper#11.

Applicant's Response (paper#11, page 2, lines 1-34 and page 3, lines 1-20) asserts that "Claims[sic] 1 is rejected under a combination of Storch, Roberts, The Economist and Official Notice."

As per claim 1, the traversal in Applicant's Response (paper#11, page 2, lines 1-34 and page 3, lines 1-20) is inadequate.

It is well settled in the law that, "Applicant must seasonably challenge well known statements and statements based on personal knowledge when they are made. . . . A challenge to the taking of judicial notice must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying the judicial notice. . . . If [A]pplicant does not seasonably traverse the well known statement during examination, then the object of the well known statement is taken to be admitted prior art. *In re Chevenard*, 139 F.2d 71, 60 USPQ 239 (CCPA 1943). A seasonable challenge constitutes a demand for evidence made as soon as practicable during prosecution. Thus, [A]pplicant is charged with rebutting the well known statement in the next reply after the Office action in which the well known statement was made" (See MPEP 2144.03 Reliance on Common Knowledge in the Art or 'Well Known' Prior Art 8 ed., August 2001, pp. 2100-129 and 2100-130).

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In this instance, Applicant's Response (paper#11) fails to demand a reference in support of the Official Notice evidence cited by the Examiner in the prior Office action concerning the obviousness rejection of claim 1. Applicant's Response (paper#11) fails to seasonably challenge the Official Notice rejection of claim 1;

Therefore, the well known Officially Noted statement concerning the claim 1 obviousness rejection is taken to be admitted prior art, and no further reference is required to be presented by the Examiner in support of the Official Notice evidence relied upon in the obviousness rejection of claim 1.

Also, as per claims 11, 15 & 20-25, Applicant's Response (paper#11) fails to demand a reference in support of the Official Notice evidence cited by the Examiner in the prior Office action concerning the obviousness rejections of claims 11, 15 & 20-25. Applicant's Response (paper#11) fails to seasonably challenge the Official Notice evidence rejections of claims 11, 15 & 20-25; furthermore, Applicant's arguments amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references;

Therefore, the well known Officially Noted statements concerning the obviousness rejections of claims 11, 15 & 20-25 are taken to be admitted prior art, and no further

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reference is required to be presented by the Examiner in support of the Official Notice evidence relied upon in the obviousness rejections of claims 11, 15 & 20-25.

Applicant's Response (paper#11, page 2, lines 1-34 and page 3, lines 1-20) proffers a traversal of the obviousness rejection of claim 1 and alleges that "the Examiner does not at all indicate which portions of Storch suggest which claim limitations."

It is well settled that "[i]n rejecting claims for want of novelty or for obviousness, the [E]xaminer must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the [A]pplicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified." (See 37 CFR 1.104( c )( 2 )).

In this case, in rejecting claim 1, the Examiner diligently cited the best references at his command at the time and furthermore, the Examiner designated the particular parts of the references relied on as nearly as practicable. And the Examiner clearly explained the pertinence of each reference in the claim rejection. (See the obviousness rejection of claim 1 supra); furthermore, Applicant's arguments concerning this issue amount to a general allegation that claim 1 defines a patentable invention without specifically pointing out how the language of the claim patentably distinguishes it from the cited references;

Therefore, the traversal of the obviousness rejection of claim 1 is inadequate, and the obviousness rejection of claim 1 is maintained.

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As per claims 2-10 & 12-14, Applicant's Response (paper#11, page 3) asserts that "Dependent claims 2-10 and 12-14 are likewise patentable at least because they depend from independent claims which are patentable." Applicant's arguments concerning claims 2-10 and 12-14 amount to a general allegation that said claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the cited references;

Therefore, the traversal of the obviousness rejections of claims 2-10 & 12-14 is inadequate, and the obviousness rejections of said claims are maintained.

Applicant's Response (paper#11, page 3, lines 31-37 and page 3) as per "the rejections of claims 16 - 19, and 26 and 27. . . . [requests] a reference pursuant to MPEP 2144.03 in order to describe the official noted subject matter in more detail.

As per the obvious rejections of claims 16-19 & 26-27, the Examiner has replaced Official Notice evidence with prior art reference evidence. Therefore, Applicant's arguments are moot regarding the obviousness rejections of claims 16-19 & 26-27. (See the revised 35 U.S.C. §103(a) rejections of claims 16-19 & 26-27 supra).

**THIS ACTION IS MADE FINAL.**

**New grounds of rejection in this Office Action are necessitated by Applicant's demand for prior art reference evidence in support of Official Notice Evidence presented in the prior Office Action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP**

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**2144.03 and MPEP § 706.07(a).** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

**A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.**

**A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.**

#### **RELEVANT PRIOR ART**

8. The prior art reference made of record and not relied upon is considered pertinent to

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Applicant's disclosure:

**U.S. Patent Documents**

5,200,889, U.S. Pat. [Apr. 06, 1993]

Mori,

705/14

“SYSTEM FOR MAINTAINING CONTINUOUS TOTAL OF REFUND AMOUNTS DUE A CUSTOMER AND FOR ALLOWING CUSTOMER DESIGNATION OF THE AMOUNT OF REFUND TO BE APPLIED TO A PURCHASE.” This reference discusses upselling; (see the ABSTRACT).

**CONCLUSION**

9. Any response to this action should be mailed to:

Box AF

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Any response to this action may be sent via facsimile to either:

(703)305-7687 (for formal communications EXPEDITED PROCEDURE) or

(703) 305-7687 (for formal communications marked AFTER-FINAL) or

(703) 746-7240 (for informal communications marked PROPOSED or DRAFT).

Hand delivered responses may be brought to:

Seventh Floor Receptionist  
Crystal Park V

Serial Number: 09/107,971

(Walker et al.)

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2451 Crystal Drive  
Arlington, Virginia.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L. Young who may be reached via telephone at (703) 305-3801. The Examiner can normally be reached Monday through Friday between 8:30 A.M. and 5:00 P.M.

If attempts to reach the Examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber, may be reached at (703) 305-8469.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

  
John L. Young

Patent Examiner

June 26, 2002



MELANIE A. KEMPER  
PRIMARY EXAMINER